

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 61st LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON JUDICIARY**

**Call to Order:** Chairman Ron Stoker, on February 20, 2009 at  
8:00 A.M., in Room 137 Capitol

#### **ROLL CALL**

##### **Members Present:**

Rep. Ron Stoker, Chairman (R)  
Rep. Deborah Kottel, Vice Chairman (D)  
Rep. Ken Peterson, Vice Chairman (R)  
Rep. Arlene Becker (D)  
Rep. Gerald Bennett (R)  
Rep. Anders Blewett (D)  
Rep. Robyn Driscoll (D)  
Rep. Bob Ebinger (D)  
Rep. David Howard (R)  
Rep. Krayton Kerns (R)  
Rep. Margaret MacDonald (D)  
Rep. Edith (Edie) McClafferty (D)  
Rep. Mike Menahan (D)  
Rep. Michael More (R)  
Rep. Keith Regier (R)  
Rep. Diane Sands (D)  
Rep. Wendy Warburton (R)

**Members Excused:** Rep. Bob Wagner (R)

**Members Absent:** None

**Staff Present:** Jennifer Eck, Committee Secretary  
David Niss, Legislative Branch

**Audio Committees:** These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

##### **Committee Business Summary:**

Hearing & Date Posted: None

Executive Action: HB 362; HB 517; HB 503; HB 504;  
HB 347; HB 534; HB 552; HB 554;  
HB 574; HB 628; HB 457

**EXECUTIVE ACTION ON HB 628**

00:02:14 Chairman Stoker

00:02:30 **Motion/Vote:** Rep. Peterson moved that **HB 628 DO PASS.**  
Motion carried unanimously by voice vote. Rep. Wagner  
voted by proxy.

**EXECUTIVE ACTION ON HB 347**

00:03:14 **Motion:** Rep. Peterson moved that **HB 347 BE TABLED.**

00:03:23 Chairman Stoker

00:03:27 **Vote:** Motion carried unanimously by voice vote. Rep.  
Wagner voted by proxy.

**EXECUTIVE ACTION ON HB 503**

00:04:04 Chairman Stoker

00:04:07 **Motion:** Rep. Peterson moved that **HB 503 DO PASS.**

00:04:13 Chairman Stoker

00:04:25 Rep. Sands called the question.

00:04:40 Chairman Stoker

00:05:52 **Vote:** Motion failed 2-16 by roll call vote with Rep.  
Driscoll and Rep. More voting aye. Rep. Wagner voted  
by proxy.

00:07:04 **Motion/Vote:** Rep. Sands moved that **HB 503 BE TABLED  
AND THE VOTE REVERSED.** Motion carried unanimously by  
voice vote. Rep. Wagner voted by proxy.

**EXECUTIVE ACTION ON HB 504**

00:07:27 **Motion:** Rep. Peterson moved that **HB 504 DO PASS.**

00:07:32 Chairman Stoker

00:07:45 Rep. Driscoll called the question.

00:07:52 **Vote:** Motion carried 10-8 by roll call vote with Rep.  
Kerns, Rep. Bennett, Rep. More, Rep. Wagner, Rep.  
Regier, Rep. Howard, Rep. Warburton, and Rep. Stoker  
voting no. Rep. Wagner voted by proxy.

00:09:18 Chairman Stoker

**EXECUTIVE ACTION ON HB 552**

00:09:41 **Motion:** Rep. Peterson moved that **HB 552 DO PASS.**

**Discussion:**

00:09:49 Chairman Stoker

00:10:22 Rep. Peterson

00:11:43 Rep. Ebinger

00:11:56 Rep. Peterson called the question.

00:12:10 **Vote:** Motion failed 1-17 by roll call vote with Rep. Blewett voting aye. Rep. Wagner voted by proxy.

00:13:54 **Motion/Vote:** Rep. Sands moved that **HB 552 BE TABLED AND THE VOTE REVERSED.** Motion carried unanimously by voice vote. Rep. Wagner voted by proxy.

**EXECUTIVE ACTION ON HB 554**

00:14:16 **Motion:** Rep. Peterson moved that **HB 554 DO PASS.**

00:14:23 Mr Niss

**EXHIBIT(juh40a01)**

00:14:26 Chairman Stoker

00:15:01 **Motion:** Rep. Howard moved that **HB 554 BE AMENDED** (refer to Exhibit 1).

**Discussion:**

00:15:20 Chairman Stoker

00:15:26 Rep. Howard

00:15:35 Rep. Wagner joined the meeting.

00:16:06 Chairman Stoker

00:16:09 **Vote:** Motion that **HB 554 BE AMENDED** carried unanimously by voice vote.

00:16:17 **Motion:** Rep. Peterson moved that **HB 554 DO PASS AS AMENDED.**

**Discussion:**

00:16:24 Chairman Stoker

00:16:27 Rep. Regier

00:16:46 Rep. Howard

00:17:28 Rep. Kottel

00:20:24 Rep. More  
00:21:43 Rep. Howard  
00:24:15 Rep. Peterson  
00:24:48 Rep. Howard  
00:26:38 Chairman Stoker  
00:26:46 Rep. Ebinger  
00:27:06 Rep. Howard  
00:27:14 Rep. MacDonald  
00:28:08 Rep. Menahan  
00:30:22 Rep. Wagner  
00:31:30 Rep. Howard called the question.

00:31:36 **Vote:** Motion that **HB 554 DO PASS AS AMENDED** failed 7-11 by roll call vote with Rep. Peterson, Rep. Kerns, Rep. Bennett, Rep. More, Rep. Regier, Rep. Howard, and Rep. Stoker voting aye.

00:32:36 **Motion/Vote:** Rep. Sands moved that **HB 554 BE TABLED AND THE VOTE REVERSED**. Motion carried unanimously by voice vote.

#### **EXECUTIVE ACTION ON HB 574**

00:33:05 **Motion:** Rep. Peterson moved that **HB 574 DO PASS**.

00:33:06 Mr. Niss

00:33:50 Chairman Stoker decided to postpone Executive Action on HB 574 until the end of the meeting.

#### **EXECUTIVE ACTION ON HB 362**

00:34:17 **Motion:** Rep. Peterson moved that **HB 362 DO PASS**.

00:34:21 Mr. Niss

**EXHIBIT(juh40a02)**

00:34:22 Chairman Stoker

00:34:36 **Motion:** Rep. Becker moved that **HB 362 BE AMENDED** (refer to Exhibit 2).

00:34:43 Chairman Stoker

00:35:41 Rep. Becker

00:35:44 Mr. Niss

00:40:49 Chairman Stoker

00:40:58 Mr. Niss

00:41:01 Chairman Stoker

00:41:08 Mr. Niss

00:41:15 Rep. Becker

00:41:22 Mr. Niss

00:41:25 Chairman Stoker  
00:41:34 Mr. Niss  
00:43:45 Chairman Stoker  
00:43:55 Rep. Becker called the question.  
  
00:43:57 **Vote:** Motion that **HB 362 BE AMENDED** carried 16-2 by voice vote with Rep. Peterson and Rep. Stoker voting no.  
  
00:44:25 **Motion:** Rep. Peterson moved that **HB 362 DO PASS AS AMENDED.**

**Discussion:**

00:44:33 Chairman Stoker  
00:44:35 Rep. Regier  
00:44:40 Rep. Wagner exited the meeting.  
00:45:07 Chairman Stoker  
00:45:18 Rep. Kottel  
00:45:24 Mr. Niss  
00:48:04 Rep. Becker  
00:50:13 Rep. Peterson  
00:52:43 Rep. MacDonald  
00:53:45 Rep. Regier  
00:54:34 Rep. Sands called the question.  
00:54:39 Chairman Stoker  
  
00:55:19 **Vote:** Motion failed 8-10 by roll call vote with Rep. Kottel, Rep. Sands, Rep. MacDonald, Rep. Ebinger, Rep. Becker, Rep. Driscoll, Rep. Regier, Rep. McClafferty voting aye. Rep. Wagner voted by proxy.  
  
00:56:11 **Motion/Vote:** Rep. Sands moved that **HB 362 BE TABLED AND THE VOTE REVERSED.** Motion carried 16-2 by voice vote with Rep. Becker and Rep. Ebinger voting no. Rep. Wagner voted by proxy.  
  
00:57:14 Chairman Stoker  
00:57:28 Recess  
01:16:16 Reconvene. Rep. Wagner rejoined meeting.

**EXECUTIVE ACTION ON HB 517**

01:16:17 Chairman Stoker  
01:16:34 **Motion:** Rep. Peterson moved that **HB 517 DO PASS.**  
01:16:44 Chairman Stoker

01:16:52 **Motion:** Rep. Kottel moved that **HB 517 BE AMENDED**  
(refer to Exhibit 3).

**EXHIBIT(juh40a03)**

**Discussion:**

01:17:27 Chairman Stoker  
01:17:35 Rep. Kottel  
01:19:28 Rep. Peterson called the question.  
01:19:37 Chairman Stoker  
01:20:24 Rep. Kottel  
01:20:40 Chairman Stoker  
01:20:48 Rep. Regier  
01:20:59 Rep. Kottel  
01:21:00 Rep. Regier  
01:21:10 Rep. Kottel

01:22:12 **Vote:** Motion that **HB 517 BE AMENDED** carried 17-1 by  
voice vote with Rep. More voting no.

01:22:33 **Motion:** Rep. Kottel moved that **HB 517 DO PASS AS**  
**AMENDED.**

01:22:41 Chairman Stoker

01:22:41 **Motion:** Rep. Kottel moved that **HB 517 BE AMENDED**  
(refer to Exhibit 4).

**EXHIBIT(juh40a04)**

**Discussion:**

01:22:47 Chairman Stoker  
01:22:55 Rep. Kottel  
01:24:38 Chairman Stoker  
01:24:59 Rep. Kottel  
01:25:01 Chairman Stoker  
01:25:05 Rep. Kottel  
01:25:39 Rep. Peterson  
01:26:37 Chairman Stoker  
01:26:41 Rep. Regier  
01:27:12 Chairman Stoker  
01:27:16 Rep. Kottel  
01:29:05 Rep. MacDonald  
01:30:16 Rep. Blewett  
01:31:01 Rep. Peterson  
01:31:32 Rep. McClafferty  
01:31:59 Rep. Becker  
01:32:23 Chairman Stoker  
01:32:30 Rep. Kottel

01:33:49 Rep. Regier  
 01:34:21 Chairman Stoker  
 01:34:32 Rep. Kottel  
 01:35:22 Rep. Peterson called the question.  
  
 01:35:28 **Vote:** Motion that **HB 517 BE AMENDED** carried 15-3 by  
 roll call vote with Rep. MacDonald, Rep. Becker, and  
 Rep. Regier voting no.  
  
 01:36:24 **Motion:** Rep. Peterson moved that **HB 517 DO PASS AS**  
**AMENDED.**

**Discussion:**

01:36:49 Rep. More  
 01:37:43 Rep. Blewett  
 01:38:19 Rep. Peterson called the question.  
  
 01:38:23 **Vote:** Motion carried 14-4 by roll call vote with Rep.  
 Kerns, Rep. Bennett, Rep. More, and Rep. Wagner voting  
 no.

**EXECUTIVE ACTION ON HB 534**

01:39:21 Chairman Stoker  
 01:39:29 Mr. Niss  
**EXHIBIT(juh40a05)**  
 01:40:57 Chairman Stoker  
  
 01:41:00 **Motion:** Rep. Peterson moved that **HB 534 DO PASS.**  
  
 01:41:03 Chairman Stoker  
  
 01:41:12 **Motion:** Rep. Menahan moved that **HB 534 BE AMENDED**  
 (refer to Exhibit 5).

**Discussion:**

01:41:20 Chairman Stoker  
 01:41:27 Rep. Menahan  
 01:50:07 Chairman Stoker  
 01:50:10 Rep. Peterson  
 01:51:24 Rep. Menahan  
 01:51:58 Rep. Peterson  
 01:52:15 Rep. Bennett  
 01:52:56 Rep. Menahan  
 01:53:23 Rep. Howard  
 01:55:40 Rep. Kottel called the question.

01:55:46 **Vote:** Motion that **HB 534 BE AMENDED** carried  
unanimously by roll call vote.

01:56:34 **Motion:** Rep. Peterson moved that **HB 534 DO PASS AS  
AMENDED.**

**Discussion:**

01:56:40 Chairman Stoker  
01:56:44 Rep. Howard  
01:59:26 Rep. Ebinger  
01:59:58 Rep. Menahan  
02:01:40 Rep. Kottel  
02:03:37 Chairman Stoker  
02:03:43 Rep. Peterson called the question.

02:03:45 **Vote:** Motion carried 14-4 by roll call vote with Rep.  
Kerns, Rep. Regier, Rep. Howard, and Rep. Stoker voting  
no.

**EXECUTIVE ACTION ON HB 574**

02:04:49 Mr. Niss  
02:04:55 Chairman Stoker

02:04:58 **Motion:** Rep. Peterson moved that **HB 574 DO PASS.**

02:05:10 **Motion:** Rep. Menahan moved that **HB 574 BE AMENDED**  
(refer to Exhibit 6).

**EXHIBIT** (juh40a06)

**Discussion:**

02:05:32 Chairman Stoker  
02:05:36 Rep. Menahan  
02:05:45 Rep. Wagner exited the meeting.  
02:07:43 Rep. Sands  
02:08:02 Chairman Stoker  
02:08:03 Rep. Menahan  
02:09:01 Chairman Stoker  
02:09:10 Mr. Niss  
02:14:04 Chairman Stoker  
02:14:57 Mr. Niss  
02:15:01 Rep. More  
02:15:18 Mr. Niss  
02:15:21 Rep. Menahan  
02:15:33 Mr. Niss  
02:15:34 Rep. Menahan  
02:15:46 Chairman Stoker



02:15:52 Rep. Peterson called the question.  
02:15:56 Chairman Stoker

02:16:01 **Vote:** Motion that **HB 574 BE AMENDED** carried 17-1 by voice vote with Rep. Wagner voting no. Rep. Wagner voted by proxy.

02:16:34 **Motion:** Rep. Peterson moved that **HB 574 DO PASS AS AMENDED.**

02:16:45 Chairman Stoker  
02:16:54 Rep. Peterson called the question.

02:16:55 **Vote:** Motion carried 17-1 by voice vote with Rep. Wagner voting no. Rep. Wagner voted by proxy.

02:17:28 Chairman Stoker

**EXECUTIVE ACTION ON HB 457**

02:17:29 **Motion:** Rep. Kottel made a motion that **HB 457 BE TAKEN FROM THE TABLE.**

02:18:06 Chairman Stoker

02:18:49 **Vote:** Motion that HB 457 carried 9-8 by roll call vote with Rep. Peterson, Rep. Kerns, Rep. Bennett, Rep. More, Rep. Regier, Rep. Howard, Rep. Warburton, and Rep. Stoker voting no.

02:20:18 Chairman Stoker

02:20:22 **Motion:** Rep. Kottel moved that **HB 457 BE AMENDED** (refer to Exhibit 7).

**EXHIBIT** (juh40a07)

**Discussion:**

02:20:49 Chairman Stoker  
02:20:55 Rep. Wagner rejoined the meeting.  
02:20:56 Rep. Kottel  
02:21:59 Rep. More  
02:22:28 Chairman Stoker  
02:22:33 Rep. Kottel  
02:23:21 Chairman Stoker  
02:24:18 Rep. Peterson  
02:24:48 Rep. Kottel  
02:25:45 Rep. Sands  
02:26:00 Rep. Kottel

02:26:04 Rep. Menahan  
02:26:55 Chairman Stoker  
02:26:59 Rep. Peterson called the question.

02:27:06 **Vote:** Motion that **HB 457 BE AMENDED** carried 10-8 by roll call vote with Rep. Peterson, Rep. Kerns, Rep. More, Rep. Wagner, Rep. Regier, Rep. Howard, Rep. Warburton, and Rep. Stoker voting no.

02:28:20 **Motion:** Rep. Kottel moved that **HB 457 DO PASS AS AMENDED.**

**Discussion:**

02:28:29 Rep. Peterson  
02:29:33 Rep. Sands  
02:30:15 Rep. Menahan  
02:31:05 Rep. Kottel  
02:32:15 Rep. Peterson called the question.

02:32:19 **Vote:** Motion failed 9-9 by roll call vote with Rep. Kottel, Rep. Sands, Rep. MacDonald, Rep. Ebinger, Rep. Becker, Rep. Driscoll, Rep. McClafferty, Rep. Blewett, and Rep. Menahan voting aye.

02:33:04 Chairman Stoker  
02:33:18 Rep. Sands  
02:33:29 Chairman Stoker  
02:33:50 Rep. Ebinger

**ADJOURNMENT**

02:34:30 Adjournment

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Jennifer Eck, Secretary

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Additional Documents:

**EXHIBIT ([juh40aad.pdf](#))**